



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**REVISED
PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC02-072. Planned Development Rezoning from LI Light Industrial District to A(PD) Planned Development District and subsequent permits located at the northwestern corner of Lick Avenue and West Alma Avenue on a 3.18 gross acre site to allow up to 260 multi-family attached residential units (Dwad Properties & Sal Lobue Trust, Owner, Barry Swenson Builder, Attn: Jessie Hall, Developer) Council District: 03

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

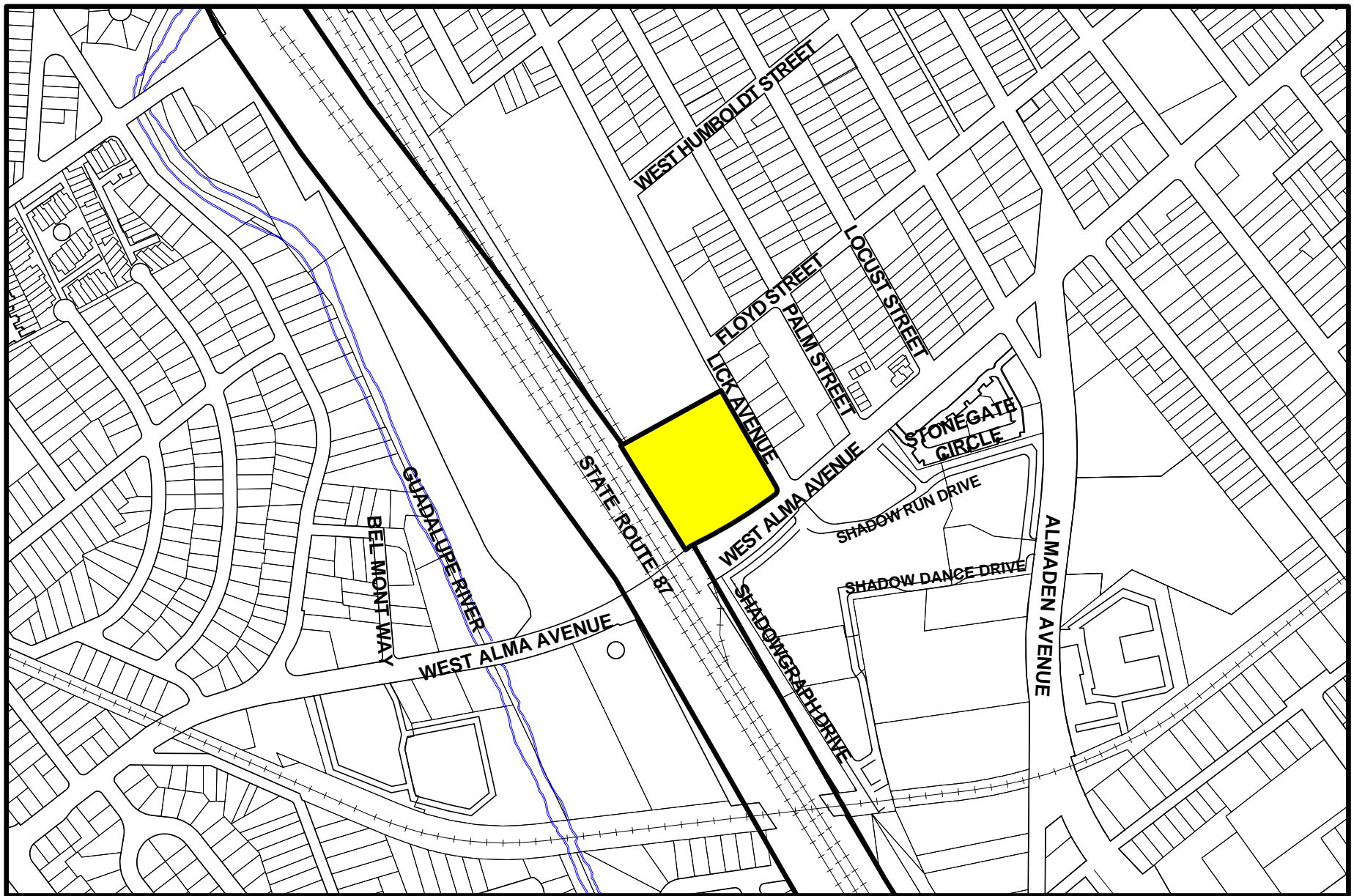
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **July 23, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **June 27, 2003** and ends on **July 23, 2003**.

A public hearing on the project described above is tentatively scheduled for hearing on **July 23, 2003 at 6:00 pm** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Willow Glen Library, 1157 Minnesota Ave. San Jose, CA 95125, and the Biblioteca, 921 S. First St., San Jose, CA 95110, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/MND2003.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Anastazia Aziz** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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Deputy



Scale: 1"=500'

File No: PDC02-072

District: 03

Quad No: 99

REVISED
DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Tamien Place

PROJECT FILE NUMBER: PDC02-072

PROJECT DESCRIPTION: Planned Development Rezoning from LI Light Industrial to A(PD) Planned Development District and subsequent permits on a 3.18 gross acre site to allow up to 260 single-family attached residential units (Duad Properties and Constance Scarpelli, Owner, Barry Swenson Builder Attn: Jessie Hall, Developer).

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northwestern corner of Lick Avenue and West Alma Avenue; APN Numbers: 434-13-015;016.

COUNCIL DISTRICT: 03

NAME OF APPLICANT: Barry Swenson Builder Attn: Jessie Hall, 777 North First Street, San Jose, CA 95112

MAILING ADDRESS AND PHONE NO. OF CONTACT PERSON: Erik Schoennauer, The Schoennauer Company, 2066 Clarmar Way, Suite D., San Jose, CA 95128

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. Cultural Resources

There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.

1. If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
2. If evidence of any archaeological, cultural and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the Planning Department Project Manager to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports

shall identify any program mitigation that the developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial and curation of archaeological resources).

3. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 25-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reenter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b. A final report shall be submitted to the Planning Department Project Manager to the satisfaction of the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resource analysis methodology and conclusions and a description of the disposition/curation of the report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

2. Air Quality

Precautions shall be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than significant levels.

- Use dust-proof chutes for loading construction debris onto trucks.
- Water to control dust generation during demolition of structures and break-up of pavement.
- Cover all trucks hauling demolition debris from the site.
- Ware or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
- Sweep daily all paved access road, parking areas, and staging areas at construction sites.
- Sweep streets daily if visible soil material is carried onto adjacent public streets.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc)
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

3. Biological Resources

The project will result in the removal of three ordinance size trees. With the inclusion of the following mitigation measures the impacts will be reduced to a less than significant level:

- To the extent feasible, existing healthy and mature trees will be incorporated into the project landscaping.
- Each ordinance size tree removed will be replaced by four 24-inch box trees.

4. Geology and Soils

The project may expose people or structures to potential substantial adverse effects, as the result of seismic risk, undocumented fill, or inadequately filled areas. With the inclusion of the following mitigation measures the impacts will be reduced to a less than significant level:

- The proposed project will be designed and built in conformance with a design-level geotechnical investigation prepared specifically for the project and subject to review and approval by the City Geologist; and
- The proposed project will be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4.

5. Hazards and Hazardous Materials

The existing buildings on the project site could contain asbestos and/or lead-based paint. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of asbestos or lead. With the inclusion of the following mitigation measures the impacts will be reduced to a less than significant level:

- Asbestos surveys will be conducted for the two buildings, as required under National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. In addition, NESHAP guidelines require that all potentially friable asbestos containing materials be removed prior to activities that may disturb the materials.
- As appropriate, a lead survey of painted surfaces and soil around buildings built prior to 1978 will be performed prior to demolition. Requirements in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.

6. Hydrology and Water Quality

Implementation of the proposed project could result in increased stormwater pollution, particularly during construction. With the inclusion of the following mitigation measures the impacts will be reduced to a less than significant level:

- The project will comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. The following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.
 - Restricting grading to the dry season or meeting City requirements for grading during the rainy season;
 - Using Best Management Practices to retain sediment on the project site;
 - Providing temporary cover of disturbed surfaces to help control erosion during construction; and
 - Providing permanent cover to stabilize the disturbed surfaces after construction has been completed.
- The project will comply with the NPDES General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that will be included in the project to minimize and control construction and post-construction runoff. The following measures will be included in the SWPP:
 - Preclude non-storm water discharges to the storm water system.

- Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
- Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
- Monitoring of discharges to the storm water system.

The project will submit a copy of the draft SWPPP to the City of San Jose Department of Environmental Services for review and approval prior to construction of the project. The certified SWPP will be posted at the project site and will be updated to reflect current site conditions.

When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board and the City of San Jose Department of Environmental Services. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

- As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, cleaning storm water inlet filters, litter control) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

7. Noise

The proposed project would be subject to loud “single-event” noise levels and all of the proposed dwelling units will be exposed to average noise levels above 60 dBA DNL. Private outdoor spaces, including balconies and front yards of the townhouses will be exposed to noise levels above the City of San Jose noise guidelines. Implementation of the proposed project will result in an increase of noise levels in the project area during construction activities, which would result in a significant temporary impact. With the inclusion of the following mitigation measures the interior Day Night Averages and construction noise impacts will be reduced to a less than significant level:

- Implement single-event noise mitigation measures that include Façade Assembly Composite Sound Insulation Ratings (STC) ratings up to 45 STC to reduce the DNL noise impact to 45 dBA DNL.
- Construct an eight-foot soundwall along the west side of the property of the common outdoor activity areas.
- ~~Limit construction to the hours of 7:00AM to 7:00PM on Monday through Friday within 500 feet of residences. No construction activities will occur within 500 feet of residences on Saturdays, Sundays or holidays.~~Noise-generating activities associated with construction of the project in any way will be restricted to the hours from 7:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday within 500 feet of residences. No construction activities may occur within 500 feet of residences on Sunday or holidays.
- Equip all internal combustion engine-driven equipment with mufflers which are in good condition and appropriate for the equipment.
- Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- Locate stationary noise-generating equipment as far as possible from sensitive receptor when sensitive receptors adjoin or are near a construction project area.
- Prohibit unnecessary idling of internal combustion engine.
- Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the non-complaint(s) (e.g.,

starting too early, bad muffler, etc.,) and institute reasonable measures warranted to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site.

8. UTILITIES AND SERVICE SYSTEMS

The existing water flow at the project site does not meet the San Jose Fire Department's fire flow requirements. With the inclusion of the following mitigation measures the impacts will be reduced to a less than significant level:

- Installation of a 2,440-foot 16-inch water main within the public right-of-way of Lick Avenue between Willow Street and Alma Avenue. The 16-inch water main shall provide a fire flow of at least 4,500 GPM or as approved by the Fire Marshal.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **July 23, 2003**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
3. File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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